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Summary record of the 2275th meeting
Held at Headquarters, New York, on Tuesday, 29 March 2005, at 4.30 p.m.

Chairperson: Ms. Chanet

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The meeting was called to order at 4.30 p.m.

Organizational and other matters (*continued*)
(A/59/40 (Vol. I), A/59/254 and A/59/2005; CCPR/C/83/CRP.1/Rev.2; HRI/MC/2004/3)

1. **The Chairperson** invited the Committee to resume its discussion of the proposed common guidelines on reporting by States parties to the international human rights treaty bodies, including the proposed guidelines for States parties on an expanded core document and treaty-specific targeted reports, which were annexed to the report of the third inter-committee meeting of human rights treaty bodies of June 2004 (HRI/MC/2004/3). A member of the Committee on the Rights of the Child, Mr. Filali, had been appointed at the 2004 inter-committee meeting as Special Rapporteur on follow-up of the draft guidelines, and she invited him to address the Committee, clarifying his mandate and his experience with the other treaty bodies.

2. **Mr. Filali** (Special Rapporteur of the inter-committee meeting on follow-up of the draft guidelines) said that his mandate consisted in listening to each committee's concerns, being attentive to all proposals and recommendations and then drawing up a report for the fourth inter-committee meeting to be held in June 2005. His contacts with the other treaty bodies had shown that each was taking a different approach: the Committee on the Rights of the Child, for instance, had held a long debate on the guidelines, reviewing them paragraph by paragraph, whereas the Committee on Economic, Social and Cultural Rights had appointed a small study group of members to draft a committee position for discussion, and the Committee on the Elimination of Racial Discrimination had already drafted a set of proposals. The report he himself would be presenting in June 2005, setting out the pros and cons as each committee saw them, would then be fully discussed and amended at the fourth inter-committee meeting.

3. **Mr. Amor**, observing that the whole question of harmonized guidelines had long been under discussion, said he believed that all the treaty bodies could move ahead well and wisely on the basis of the position worked out by the Committee during the last session at its 2246th meeting. To sum up that position: the Committee believed that the notion of a single document that would serve as a report to all the treaty bodies, whether thus presented explicitly or implicitly, should be categorically rejected, both for legal considerations — since the treaty that Governments must implement was legally distinct in the case of each treaty body — and for political considerations. Secondly, the Committee believed that an expanded core document could contain information useful to all treaty bodies; other than that, all reports must be treaty-specific reports: the initial report of a State body must contain full information on the implementation of all provisions of the treaty in question, and the subsequent, more narrowly targeted, reports should be based essentially on questions raised by the Committee. Thirdly, the Committee had expressed full support for the idea of cooperation between the various treaty bodies and between them and the other machinery of the Commission on Human Rights, by means of exchanges of information and consultations on items of common interest, such as draft concluding observations, and on common positions to be taken on substantive issues, such as reservations. Fourthly, the Committee had felt that inter-committee cooperation should be a source of progress rather than a reduction to the least common denominator: cooperation should not be made the justification, for instance, for challenging the Human Rights Committee's rich jurisprudence under the Optional Protocol, which amounted to a progressive development of human rights law.

4. **Mr. Kälin**, summarizing the further discussion of the entire issue during the current session at the 2264th meeting, recalled the Committee's position that a single report by States parties was neither feasible nor desirable; very specific proposals had been made regarding what should go into the expanded core document. The consensus had been that it should, as in the past, contain general factual and statistical information about a country and should, in addition, lay out what the draft guidelines (sect. 2) referred to as the "general framework for the protection and promotion of human rights", which would cover areas of common interest to all committees, such as the status of international treaties in domestic law, the national framework for the promotion of human rights, the national institutions established, and the like. However, the Committee had had serious reservations about including any information about substantive human rights provisions in the expanded core document. The draft guidelines, for instance, suggested including all information relating to discrimination; but

each individual treaty framed such concepts differently and took a different approach, as could be seen in a comparison of free-standing article 26 against discrimination of the Covenant on Civil and Political Rights and the corresponding, more limited, non-discrimination article in the Convention on the Elimination of All Forms of Discrimination against Women. The Committee had felt that to take a combined approach to reporting on discrimination and other issues, as proposed in section 3 of the draft guidelines, would be exceedingly difficult for the State party and would certainly complicate each committee's consideration of the matter. Lastly, the Committee had again supported the position that the initial report should be a very comprehensive one but that subsequent reports should be more narrowly targeted, so that States could report on progress only in areas of specific interest to the committee involved.

5. **Mr. Rivas Posada** said that the concept of a single report to all the treaty bodies was the most ambitious goal in the harmonization of reporting procedures, itself only one aspect of achieving the larger goal of having the human rights treaty bodies function as a unified system, as envisaged by the Secretary-General (A/59/2005, para. 147). All the treaty bodies had spent two years discussing a revised reporting system. Although it was no doubt late in the process to say so, it would have been logical to proceed by having each treaty body initially specify clearly what it looked for in the States parties' reports that made them most useful, and only then have the Committee proceed to consider how to harmonize the reporting guidelines while still satisfying the individual committee requirements. He did not see how the overall vision could be analysed before each specific committee vision had been defined.

6. **Sir Nigel Rodley** said that he endorsed the views expressed thus far. The Committee agreed that States often suffered a reporting overload, but it was proposing a solution. The assumption behind the proposal for a unified report was that each time a State party had to report to a treaty body, it must report on the application of the whole treaty. While for the Human Rights Committee, that might be the case for initial reports, after that the main concern was the list of issues. The Committee's proposal would require States parties to report on the whole treaty only in the initial report and, after that, simply to reply to a list of issues drawn up by the relevant subcommittee. Although lists of issues would need to be prepared earlier in order to allow time for replies to be submitted and documents translated, the overall reporting burden would be significantly reduced.

7. **Mr. O'Flaherty** said that the current discussion was taking place in parallel with a number of other discussions with enormous implications for reporting procedures, in particular the previous week's discussion concerning the report of the Secretary-General entitled "In larger freedom: towards development, security and human rights for all" (A/59/2005). Referring to the statement in paragraph 147 of that report concerning the need for the treaty bodies to function as a unified system, he questioned what was meant by "unified system". In particular, he wished to have a better understanding of how the vision of the Secretary-General and the Secretariat was consistent with that of the Committee.

8. Secondly, while he appreciated that the Special Rapporteur's mandate was to report to the fourth inter-committee meeting and the seventeenth meeting of chairpersons of human rights treaty bodies in June 2005, he was also conscious of the Secretary-General's instructions to the Office of the High Commissioner for Human Rights that it should submit a plan of action within 60 days with a view to strengthening the Office's ability to discharge its vital mandate. Support for reform of the reporting process was at the core of the High Commissioner's vital mandate and he would therefore be grateful if the Special Rapporteur could impress on the High Commissioner the importance of giving such reform a prominent place in its 60-day plan of action.

9. **The Chairperson** said that the Committee had clearly demonstrated its united position on the key elements of the proposed reform, in particular the expanded core document, which must be based on the Secretariat's guidelines (HRI/MC/2004/3), and on the more contentious issues of non-discrimination and remedies. As she hoped was clear, the Committee had made a significant effort to reduce the reporting burden on States parties by introducing targeted reports in response to lists of specific issues. She invited the Special Rapporteur to respond to the questions raised thus far.

10. **Mr. Filali** (Special Rapporteur of the inter-committee meeting on follow-up of the draft guidelines) said that the Committee's concerns were

not that far removed from those of the other treaty bodies. Several committees, for example, felt that a single report was unjustified. He recalled that participants at the meeting held in Liechtenstein had already rejected the idea in favour of a two-part report comprising an expanded core document and a targeted treaty-specific report. Some committees, meanwhile, felt that insufficient details had been provided concerning the suggestion that treaty bodies could adopt their own approach for the treaty-specific part of the report, provided they stayed within the parameters established in the guidelines. The main point, however, was that the idea of a single report had already been rejected.

11. The issue of cooperation between the various committees and with other United Nations bodies, such as the Commission on Human Rights and the Subcommission on the Promotion and Protection of Human Rights, had been raised several times. The Committee on the Rights of the Child, for example, was keen to receive documents from other committees. Some of its members had consulted documents relating to other committees and discovered that States parties often simply reproduced the same information for each treaty body, albeit with a slightly different twist. In that regard, the proposal to ask States to respond to a list of issues was very positive, as it solved the problem of outdated information in reports and obliged States parties to respond to the most pressing issues. In the case of the Committee on the Rights of the Child, the list of issues was drawn up just before each session and was based on the latest information provided by non-governmental organizations and specialized bodies. He shared the concerns regarding whether the targeted treaty-specific report would replace the list of issues.

12. Another important issue was respect for reporting deadlines. In order for the guidelines — which were not yet finalized — to be effective, it must be the will of States parties to submit their reports on time. If not, nothing would change. The Committee on the Elimination of Discrimination against Women (CEDAW) and the Committee on the Rights of the Child, in particular, already had a significant backlog. Following a request by the latter committee, the General Assembly had authorized it to work as two chambers as of January 2006.

13. He agreed that the issue of reservations was a concern and endorsed the comment that a unified approach was required. Indeed, one of the main obstacles to the implementation of treaties at the national level was the various reservations and declarations issued by States parties. In his view, the committees must pool their experience. He referred to the experience of the Committee on the Rights of the Child where a number of countries, such as Egypt and Pakistan, had withdrawn fairly substantial reservations, demonstrating that a request to States parties to review their reservations could lead to progress. Such an approach, however, did not seem acceptable to the Commission on Human Rights, which seemed to be of the opinion that a certain hierarchy existed between itself and the Committee and that the Committee must therefore follow its stance on reservations.

14. As for the guidelines, there seemed to be consensus among the various committees that working methods needed to be changed and reporting burdens reduced. A number of specific issues still needed to be resolved, however, such as that of substantive rights. The Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women, for example, were concerned that non-discrimination would be covered in the core document, not in the treaty-specific document. However, there was nothing in the guidelines that prevented States from addressing substantive rights in the treaty-specific document also. He was reluctant to draw conclusions prematurely, as the guidelines still needed to be finalized and pilot cases conducted to assess the viability of the proposal.

15. With regard to the length of reports under the new proposals, the guidelines stated that common core documents should not exceed 60 to 80 pages, initial treaty-specific documents should not exceed 60 pages, and subsequent treaty-specific documents should be limited to 40 pages. It was perhaps true that things could have been done differently, by seeking the view of each committee first and then reaching consensus at the inter-committee meetings. The committees had not exactly been absent, however, as representatives — including the chairpersons — of each committee had attended the inter-committee meetings from the outset.

16. With regard to the meaning of the term "unified system", he took it to mean that the approach must be both unified, i.e., the presentation of reports should be unified for all committees in line with the guidelines, and synchronized, to prevent delays. Such an approach would reduce the reporting burden and improve efficiency.

17. **The Chairperson** said that synchronization was indeed essential, since if there were long delays between the date of submission to one committee and the date of submission to the next, the information contained in the core document would become outdated and would need to be rewritten, thereby complicating rather than simplifying procedures. In addition, stipulating a specific number of pages without even knowing what needed to go into the report seemed bureaucratic, to say the least.

18. **Mr. Amor** said that, while the targeted reports being proposed by the Committee would inevitably be shorter, it was impossible to predict the length of State party replies to the list of issues in advance, and therefore the length of reports could not be set in stone. Secondly, in his view, implementing the draft guidelines before any kind of agreement was reached would be premature.

19. **The Chairperson** thanked the Special Rapporteur for attending the meeting and wished him well in the difficult task that lay ahead.

The meeting rose at 5.35 p.m.